MAIL STOP APPEAL BRIEF - PATENTS
3011-1024

IN THE U.S. PATENT AND TRADEMARK OFFICE

In re application of

Simon KNOWLES — Conf. 1245

Application No. 10/517,523 — Group 3637

Filed December 13, 2004 — Examiner M. Kuhn

COLLAPSIBLE BAR

RESUBMISSION OF APPEAL BRIEF

MS APPEAL BRIEF - PATENTS
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

January 22, 2008

Sir:

This resubmits the appeal brief in response to the Official Action of December 19, 2007.

It is believed that the resubmitted brief takes account of all the objections set forth in the December 19, 2007 Official Action. Thus, as to Item IV, and the requirement that the "means" be identified, this is done at the top of page 2 of the Brief, where we point out that these means are 34, 36, 38, 52 and 56.

Further regarding Item IV, the claimed recess or aperture is now identified in an addition at the middle of page 2 of the Brief.

As to Item VI, when we recite the rejections to be reviewed on appeal, we number them 1-5 in the material bridging pages 3 and 4 of the original Brief. Now, however, we insert headings identifying those rejections in the places in the Brief where the arguments against the respective rejections are to be found.

As to the separate identification of the arguments relating to the claims that stand or fall together, notice that, at the bottom of page 4 of our original Brief, we identified which claims stand or fall together and which will be separately argued. Then, under the heading (VII) argument, we recite the group of claims 28 and 32-37 as a separate heading; and thereafter, separate headings are given for claim 29, on the one hand, and claims 30 and 31, on the other hand.

It is thus believed that all the points raised in the Official Action of December 19, 2007, have been fully complied with.

The Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any

overpayment to Deposit Account No. 25-0120 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17.

Respectfully submitted,

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3011-1024
PATENT

IN THE U.S. PATENT AND TRADEMARK OFFICE BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

In re application of	Appeal No.
Simon KNOWLES	Conf. 1245
Application No. 10/517,523	Group 3637
Filed December 13, 2004	Examiner Mart K Kuhn

COLLAPSIBLE BAR

RE-SUBMITTED APPEAL BRIEF

MAY IT PLEASE YOUR HONORS:

(i) **Real Party in Interest**

The real party in interest in this appeal is the inventor, Simon KNOWLES.

(ii) **Related Appeals and Interferences**

None.

(iii) **Status of Claims**

Claims 1-27 have been canceled.

Claims 28-37 have been rejected and are the claims on appeal.

(iv) **Status of Amendments**

An amendment was filed after final rejection, on July 20, 2007.

An Advisory Action of July 27, 2007 stated that this amendment would be entered for purposes of appeal.

(v) **Summary of Claimed Subject Matter**

The claimed subject matter is a collapsible bar comprising support members 12 and means (34, 36, 38, 52, 56) for releasably latching work surface elements 14 to the support members 12. Each work surface element is removably engageable with the support members via the releasable latching means. The releasable latching means include an elongated channel 36 on each support member 20 and two skirt portions 38 on the surface element 14, the skirt portions being receivable in the channels as a close fit. Each channel 36 is open-ended and the releasable latching means also includes a latch element 52, 56 which can slidably receive the open end edge of the channel 36. The latch element 52, 56 is formed on a free edge of the skirt portion (see Fig. 6).

A work surface element includes a recess or aperture therethrough (66, 69, 70, see page 5, lines 4-13 of our specification) for a purpose set forth in the last several lines of claim 28.

In our specification, we point out the broad relationship between the support members 12 and the surface elements 14 on page 2, lines 19 and 20. We recite the horizontal cross-members 20 in page 3, line 3. We recite the U-shaped channels 34, 36 at page 3, lines 19-22.

Turning then to Figure 6, in page 4, lines 14-18, we identify the latch element 52 with its recess 56 that receives

the open-ended edge 58 (see Figure 5) of the elongated channel 36.

Skipping then to the last three lines on page 5 of our specification, we see that the releasable latching means comprises the elongate channel 36 of Fig. 5 which receives the side skirt portion 38 of Fig. 6 of the surface element 14, with a close fit.

See also the first paragraph on page 6 of the specification, by which the assembly via the releasable latch elements is recited.

(vi) **Grounds of Rejection to be Reviewed on Appeal**

In the final rejection of May 21, 2007, various rejections under 35 USC 112, second paragraph, were entered. But by an amendment after final rejection, filed July 20, 2007, it is believed that those formal objections were overcome; and the Advisory Action of July 27, 2007 stated that those amendments would be entered for purposes of appeal. Therefore, it is not believed to be necessary for the Board to review a Section 112 rejection.

Instead, the rejections to be reviewed on appeal are as follows:

1. The rejection of claims 28, 33 and 35 as unpatentable over GRANDIN U.S. Patent 6,684,576 in view of KOSKI U.S. Patent 3,532,403. It is believed the Examiner relies on

GRANDIN for the overall teaching, and on KOSKI for the particular details of the work surfaces.

2. The rejection of claims 29 and 32 as unpatentable over GRANDIN and KOSKI as above, further in view of BAKER et al. U.S. Patent 1,411,260, the Examiner relying on BAKER for a teaching of releasable latching means.

3. The rejection of claims 30 and 31 as unpatentable over GRANDIN, KOSKI and BAKER et al. as above, further in view of BARTLETT et al. U.S. Patent 3,498,239, the Examiner relying on BARTLETT et al. for the teaching of a shelving system.

4. The rejection of claim 34 as unpatentable over GRANDIN and KOSKI as above, further in view of OKOPNY U.S. Patent 4,699,067, the Examiner relying on OKOPNY for a teaching of means for releasably retaining a bar top element on support members.

5. The rejection of claims 36 and 37 as unpatentable over GRANDIN and KOSKI as above, further in view of DONAVAN U.S. Patent 1,093,119, the Examiner relying on DONAVAN for the teaching of a screen wall which is free standing and hingedly jointed.

It might be appropriate at this point in this brief, to point out which claims do and do not stand and fall together. Specifically:

1. Claims 28 and 32-37 stand or fall together.

2. Claim 29 stands separately and will be argued as such.

3. Claims 30 and 31 stand separately and will be argued as such.

(vii) **Argument**

Claims 28 and 32-37.

Rejection 1 (above)

For the purpose of evaluating the rejections of these claims, the Board can deal with claim 28 alone, which was rejected as unpatentable over GRANDIN in view of KOSKI. As to KOSKI, the Examiner points to recess 45 (Fig. 7) and waste container 46, and proposes these items for addition to GRANDIN.

As GRANDIN and KOSKI are both in the field of sectional bars, we will not contest the use of KOSKI for this purpose.

However, we must definitely contest the use of GRANDIN as a basic reference. According to the final rejection, GRANDIN discloses means 26, 27 for releasably latching, etc. These means are shown in Figs. 3, 4 and 5 of GRANDIN and are described in column 4, lines 11-13 and 28-30 of GRANDIN. These are simply knobs 26 with threaded vertical bores. In column 4, lines 28-30, we see that items 27 are said to be spaced apertures bored and threaded into the pair of knobs 26.

Whatever this means is not apparent from GRANDIN's crudely hand-drawn figures, but we take it that items 26 are indeed knobs and that items 27 might be screw-threaded apertures in those knobs. Perhaps these are to receive a bolt 53, as

pointed out in column 4, line 34; but we do not find a bolt 53 and so can only speculate as to what GRANDIN had in mind.

The rest of GRANDIN's specification does not enlighten us as to this.

In any event, whatever it is that GRANDIN is talking about, we cannot find anything corresponding to the releasable latching means of the present invention, nor does the final rejection enlighten us as to how items 26, 27 could be considered to be releasable latching means.

The point of claim 28, is to recite a collapsible bar structure having work surfaces of various kinds, that are quickly and readily replaceable so as to vary the nature of the assembled bar in any desired manner. This concept is totally absent from references such as GRANDIN, in which the bar is obviously permanently assembled. Therefore, it cannot be said that claim 28 (and hence the claims that depend therefrom) is unpatentable over the proposed combination of GRANDIN and KOSKI.

Moreover, shelving units are simply <u>not</u> used as temporary bars at social functions. A person wanting a temporary bar would not, in the past, have used or even thought of using a shelving unit, or even a bar such as GRANDIN or KOSKI. It would not have occurred to them. This was the root cause behind the development of the present collapsible bar.

It is essential that the bar is quickly collapsible - essentially as quickly collapsible as a trestle with planks of

wood provided thereacross, which is mentioned in the background art.

It is also essential that the collapsible bar provide an organized environment for serving purposes. Shelving units do not and cannot provide this, and the skilled person would not consider this option.

Page 9, final paragraph of our specification summarizes the main benefits of the collapsible bar of the present invention as: a collapsible bar which can be temporarily erected in almost any location and sized to accommodate any requirement; a collapsible bar having the convenience and functions of a permanent bar, and which is aesthetically pleasing; a collapsible bar having selectively positionable, repositionable and interchangeable work surface elements and shelf surface elements.

The means for temporary erection is essential, since it allows speedy dismantling, transportation and, importantly, compact storage. It can be readily appreciated that, by using flat side-supports and flat work surface elements, the entire unit can be flat packed. The prior art does not provide for this.

The functions and convenience of a permanent bar are critical so that a professional service can be provided to the patrons. The prior art cited simply does not provide for this.

The prior art does not provide positionable, repositionable and interchangeable work surface elements and

shelf surface elements to accommodate different functions, such as a sink, ice chest, chiller, waste disposal, cutting surface, and such like. See page 5 of our specification, from line 4 to line 20.

The Examiner's reliance on prior art which does not actually show "collapsible" bars within the context of the invention, along with prior art from the field of shelving units, which would not have been considered by the skilled addressee, does not render obvious the subject matter claimed by the applicant who has developed a popular device which fulfills a long-felt need.

Claim 29.

Rejection 2 (above)

For claim 29, the Examiner relies on GRANDIN and KOSKI, as applied above, further in view of BAKER et al. Claim 29 requires that the releasable latching means include an elongate channel on each support member and two skirt portions on a surface element, the skirt portions being receivable in the channels as a close fit.

BAKER does indeed include skirt portions 17 on shelves 4, as seen in Fig. 3, receivable in the channels 16 shown in Fig. 5.

But look at Fig. 2 of BAKER, in which we see one relationship of channel 16 and flange 17. Does that look like a "close fit" as required by claim 29?

Moreover, in reaching into the shelving art, the Examiner reaches too far. The whole point of shelving such as that of BAKER et al. is to provide shelving that can be quickly and easily assembled and disassembled and then left in a static condition. See page 1, left column, lines 9-18 of BAKER et al.

By contrast, the present invention is in the art of modular bars, which can be suitably organized for serving different drinks (see page 1, line 9 of our specification). It is clear from our claim 28, that the present invention is concerned not merely with providing work surfaces, but rather for providing work surfaces of various types, which can be quickly and easily interchanged so as to provide an assembly of various work surfaces as desired.

Furthermore, the surfaces of the present invention are work surfaces, in contrast to the static storage or support surfaces of BAKER. This further emphasizes the importance of the "close fit" of claim 29.

Accordingly, a person skilled in the art of collapsible bars, seeking to provide a readily rearranged assortment of various work surfaces, would not look to the art of shelving, wherein all the surfaces are the same and a loose connection is acceptable. Thus, BAKER et al. would not have been considered, at the time this invention was made, by persons having ordinary skill in the art of collapsible bars, and so cannot legitimately be used against claim 29.

Claims 30 and 31.

Rejection 3 (above)

As explained above, the claim 30 subject matter is shown in Figs. 5 and 6 of our drawings, wherein the open-ended edges 58 of the elongate channels 36 are inserted in the recess 56 of the latch element 52, as explained in our specification at page 4, lines 14-18 and page 6, lines 1-10. For claim 30, the final rejection relies on GRANDIN and KOSKI and BAKER, plus BARTLETT et al. In BARTLETT et al., the Examiner finds open-end channels at 26 which receive skirt portions 28 of the surface element. But the channels 26 of BARTLETT et al. are nothing like the channels 36 of the present invention, which receive the skirt portions as a close fit (claim 29, last line).

Therefore, a person of ordinary skill in the art, whether it is the art of collapsible bars or the art of metal shelving as in BARTLETT et al., would not use BARTLETT et al. for any modification of a channel that receives a skirt portion as a close fit, because BARTLETT et al. does nothing of the sort. It appears that the Examiner, seeing the slot 40 in Fig. 2 of BARTLETT et al., equated it to the slot 56 of the present invention; but the resemblance is only illusory, for the reasons given above.

Thus, it would not have been obvious to a person of ordinary skill in the art of collapsible bars, at the time the invention was made, to have provided a latch element which can

slidably receive the open-end edge of a channel which receives a skirt portion as a close fit.

Rejection 4 (above)

As stated above, claim 34, to which this rejection ws applied, stands or falls with claim 28.

Rejection 5 (above)

As stated above, claims 36 and 37, to which this rejection was applied, stand or fall with claim 28.

Reversal of the rejections of record is accordingly respectfully requested.

Respectfully submitted,

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Enclosures: Claims Appendix

January 22, 2008

(viii) **Claims Appendix**

1-27. (canceled)

28. A collapsible bar comprising support members and means for releasably latching work surface elements to the support members, wherein there is a selectable number of the support members, the number of support members being variable from two to any number, wherein a plurality of selectable and interchangeable work surface elements having different functions are provided, each selected said work surface element being removably engagable with the support members via the releasable latching means, so that, when assembled, the said selected work surface elements interconnect the support members, and wherein at least one of the work surface elements includes one of a recess and an aperture through the work surface element, the said recess being suitable for use as at least one of a multi-bottle holder and an ice-chest, and the aperture being suitable for at least one of receiving and supporting a waste container therein and receiving a waste chute leading to a waste container.

29. A collapsible bar as claimed in claim 28, wherein the releasable latching means includes an elongate channel on each support member and two skirt portions on a said surface element, the skirt portions being receivable in the channels as a close fit.

30. A collapsible bar as claimed in claim 29, wherein each channel is open-ended and wherein the releasable latching means also includes a latch element which can slidably receive the open-end edge of the channel.

31. A collapsible bar as claimed in claim 30, wherein the latch element is formed on a free-edge of a said skirt portion.

32. A collapsible bar as claimed in claim 29, wherein each support member is in the form of a frame having, in use, front and back uprights and a plurality of horizontal cross-members interconnecting the front and back uprights.

33. A collapsible bar as claimed in claim 28, wherein a said surface element is removably positionable in a plurality of positions on the support members and is interchangeable with another surface element.

34. A collapsible bar as claimed in claim 28, further comprising a bar-top element, which is supportable by the first and second support members, and means for releasably retaining the bar-top element on the first and second support members.

35. A collapsible bar as claimed in claim 28, further comprising a screen wall for screening the front and sides of the in use bar from patrons.

36. A collapsible bar as claimed in claim 35, wherein the screen wall is hingeably jointed to enable folding.

37. A collapsible bar as claimed in claim 35, wherein the screen wall is freestanding.

(ix) **Evidence Appendix**

None.

(x) **Related Proceedings Appendix**

None.